

Remarks

This communication is responsive to the Non-Final Office Action of **May 27, 2009** and the telephonic interview of **May 19, 2009**. Reexamination and reconsideration of the claims is respectfully requested.

Status of Claims

Claims 1-22 are pending for examination.

Claims 1, 12, 13, 14, 15, 21, and 22 are amended herein.

Claims 2, 3, and 4 are cancelled herein.

Claims 1, 12, 15, 21, and 22 are in independent form.

Summary of The Office Action

Claims 1, 12, 21, and their dependent claims were objected to because the claimed method/process is purportedly not tied to a particular machine.

Claims 1 and 3-11 were rejected under 35 USC §103(a) as purportedly being unpatentable over Hefetz et al. (United States Patent Publication No. 20040123238 A1)(Hefetz) in view of Kniest (United States Patent Publication No. 2002/0156864 A1)(Kniest) and further in view of Griffin (United States Patent Publication No. 2003/0126558 A1)(Griffin). To advance prosecution, the elements of claims 3 and 4 have been incorporated into claim 1 and claims 3 and 4 have been cancelled.

Claims 12-20 and 22 were rejected under 35 USC §103(a) as purportedly being unpatentable over Hefetz in view of Kniest.

Claim 2 was rejected under 35 USC §103(a) as purportedly being unpatentable over Hefetz in view of Kniest and in view of Griffin as applied to claims 1, 3-11 and further in view Anuszczyk et al. (United States Patent Publication No. 2003/0110253 A1)(Anuszczyk). To advance prosecution, the

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Applicant(s): LI, *et al.*
Examiner: KHOSHNOODI, FARIBORZ
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elements of claim 2 have been incorporated into claim 1 and claim 2 has been cancelled.

Claim 21 was rejected under 35 USC §103(a) as purportedly being unpatentable over Hefetz in view of Kniest and further in view of Bryan et al. (United States Patent Publication No. 2002/0146015 A1)(Bryan).

Substance of the Interview

A telephonic interview regarding claims 1-22 was conducted on **May 19, 2009** with the Examiner and the Supervising Examiner. The following is a brief summary of the interview in accordance with MPEP 713.04. Three topics were discussed during the interview. First, the Examiner clarified the 35 USC § 101 rejection regarding claims 1-22. The Examiner believes that claims 1-22 are purportedly not tied to a particular machine or apparatus. To advance prosecution, the Examiner suggested amending independent claims 1, 12, and 21 to recite a portal template "stored on a storage device." These amendments are made herein.

Second, the Applicant and the Examiner discussed the interpretation of a content distributed network as claimed and described. The Examiner does not believe that a content distributed network is a term of art and would like a secondary reference to support the Applicant's interpretation. Furthermore, the Examiner emphatically believes that a reasonable broad interpretation of a content distributed network is the Internet. This interpretation is incorrect.

Finally, the Applicant and the Examiner discussed the interpretation of "providing a portal." The Examiner interprets providing a portal as Hefetz updating a change based on an entry by the user.

Additionally, the Examiner suggested that claims 2, 3, and 4 should be combined into claim 1 to advance prosecution. This suggestion is incorporated herein.

Response

To advance prosecution, the claims have been amended as suggested by the Office Action (OA). NO new matter has been added. None of the references, alone and/or in combination, teach dynamically providing a portal in a content distributed network. The differences between the claimed features and the references are explained below. Applicant respectfully requests the claims now be allowed.

The Claims Are Directed Towards Patentable Subject Matter

35 U.S.C. §101

Claims 1, 12, 21, and their dependent claims were rejected because the claimed method/process is purportedly not tied to a particular machine.

Bilski Test for Method Claims

The *en banc Bilski* court held that “the machine-or-transformation test, properly applied, is the governing test for determining patent eligibility of a process under § 101.” *In re Bilski*, 545 F.3d 943, 956 (Fed. Cir. 2008) (*en banc*).

A claimed process is surely patent-eligible under § 101 if: (1) it is tied to a particular machine or apparatus, or (2) it transforms a particular article into a different state or thing. *Id.* at 954.

Claims 1, 12, and 21 recite patentable subject matter because the claims are tied to a particular machine or apparatus, specifically, a computer configured as a content engine. The claims also produce a physical transformation of matter by providing a portal page to a client system. Additionally claims 1, 12, and 21 have been amended as suggested by the OA to recite a portal “stored on a storage device.” Thus claims 1, 12, 21, and their dependents are now allowable.

Claims 1, 12, and 21 recite “[a] method performed in a computer configured as a content engine.” The specification states that the content engine includes a

controller, a memory, and a storage device. (pg. 10, [0035]). Thus a computer configured as a content engine is undeniably a machine. To accomplish the method as claimed, the steps must be tied to a computer configured as a content engine. Therefore claims 1, 12, 21, and their dependents recite patentable subject matter and are allowable.

Claims 1, 12, and 21 recite “dynamically providing a portal in a content distributed network.” The claims transform data into a different state or thing, specifically, a portal page. First, the client requests data within the content engine. (pg. 11, [0035]). In response, the content engine dynamically generates a portal page with links and other types of content metadata. (pg. 12, [0035]). The content engine then transmits the generated portal page to the client. (pg. 11, [0035]). The claims are physically transforming data into a portal page that is delivered to the client. Therefore, claims 1, 12, 21, and their dependents recite patentable subject matter and are allowable.

To advance prosecution, claims 1, 12, and 21 have been amended as suggested by the OA. (OA pg. 2). Specifically claims 1, 12, and 21 have been amended to recite a portal template “stored in a storage device.” Thus claims 1, 12, 21, and their dependents are now allowable.

The Claims Patentably Distinguish Over the References of Record

Applicant can be a Lexicographer

All of the independent claims include the similar element of “dynamically providing a portal in a content distributed network.” The references do not teach or suggest a portal associated with a content distributed network (CDN). None of the references even mention a CDN. As explained in the Substance of the Interview, the Examiner does not believe a CDN is a term of art. However, according to MPEP 2111.01, an applicant can be his or her own lexicographer. When an Applicant provides an explicit definition for a term, that definition will control

interpretation of the term as it is used in the claim. (MPEP 2111.01). Thus the Examiner's subjective "belief" regarding a CDN being a term of art is irrelevant.

In the specification, CDN is described on at least page 1, paragraph 1 and page 2, paragraphs 1 and 2. A CDN enables web content from an origin server to be distributed to caching servers at various locations in a network such as the Internet. The CDN contains content routers and content engines. The content engines cache web content from the origin server. When a request is made for a web page in a CDN, the CDN redirects the request from the origin server to a content engine that is closest to the client. The content engine then delivers the cached content to the client. CDNs improve access to content because the clients are able to obtain content from a caching server that is closer and less heavily loaded than the origin server.

The usage of CDN in the specification and claims agrees with the general usage in the field. For example, Cisco describes a CDN as "a coordinated system made up of three types of machines: a Content Distribution Manager, a Content Engine, and a Content Router." (Cisco Internet CDN Software User Guide, Chapter 2). A CDN "allows web content to be distributed to caches at various locations on the Internet and then accessed from those caches." (Id. at Chapter 1). Wikipedia describes a CDN as a "system of computers networked together across the Internet that cooperates transparently to distribute content for the purposes of improving performance and scalability." (Wikipedia.com, http://en.wikipedia.org/w/index.php?title=Content_delivery_network&oldid=303507006 (last visited July 24, 2009)). Furthermore, working groups have been created in the industry to discuss CDNs and associated technologies. The Internet Engineering Task Force (IETF) has concluded a working group concerning Content Distribution Internetworking. The group produced three Requests For Comments regarding CDNs. (The Internet Engineering Task Force, <http://www.ietf.org/wg/concluded/cdi.html> (last visited July 24, 2009)). These secondary references show that the meaning of

CDN as claimed and described is the same meaning that a person of ordinary skill in the art would have at the time of the invention. Thus the CDN as described should control the interpretation of the term as it is used in the claims.

The Internet is Not a CDN

Applicant respectfully submits that a CDN and the Internet are distinct and separate. Although the Internet utilizes a CDN, a CDN is not the Internet. CDNs improve content delivery within the Internet, thus a person having ordinary skill in the art would know that a CDN and the Internet cannot be one and the same.

An illustrative example may help clarify the differences between a CDN and the Internet. A CDN is to the Internet as a subway is to Chicago. Susie could travel around Chicago using the streets and sidewalks. However, with a subway, Susie would be able to travel more efficiently and faster through the traffic and congestion of Chicago. The Internet does not need to use a CDN. However, with a CDN, the Internet is more efficient. Additionally, a CDN is not exclusively operable with the Internet. A CDN may also be utilized with other types of networks. Thus, a CDN is not the Internet and a reasonable broad interpretation of a CDN is not the Internet. Since none of the references teach a portal associated with a CDN, the independent claims and their dependents are not anticipated for at least this reason.

35 U.S.C. §103

The arguments made in response to the previous office actions are repeated and augmented below to respond to the Examiner's responses. To establish a prima facie case of 35 U.S.C. §103 obviousness, basic criteria must be met. The prior art reference (or references when combined) must teach or suggest all the claim limitations. MPEP 2143(A). Section 2131 of the MPEP recites how "[a] claim is anticipated only if each and every element as set forth in the claim is found,

either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). This same standard applies to 103 rejections as evidenced by Section 2143(A) of the MPEP, which reads: "The rationale to support a conclusion that the claim would have been obvious is that **all the claimed elements** were known in the prior art and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions."

When establishing a prima facie case of obviousness the Office must clearly articulate the reason(s) the claimed invention would have been obvious. MPEP 2142 recites that:

The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious. The Supreme Court in *KSR International Co. v. Teleflex Inc.*, 550 U.S. 398, 418, 82 USPQ2d 1385, 1396 (2007) noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit. The Federal Circuit has stated that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR*, 550 U.S. at 418, 82 USPQ2d at 1396 (quoting Federal Circuit statement with approval).

Additionally, the teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, not in applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). This requirement is intended to prevent unacceptable "hindsight reconstruction" where the claim is recreated from references using the Application as a blueprint.

Here, the criteria for establishing a prima facie case of obviousness are not satisfied since the combination of references does not teach or suggest all the claim limitations. None of the references, alone and/or in combination, teach a

portal associated with a content distributed network (CDN). Therefore, none of the references, alone and/or in combination, teach making a request for a dynamic portal associated with a CDN. Since no request is made for a dynamic portal associated with a CDN, a dynamic portal is not generated and a dynamic portal is not provided. Thus, none of the claims are obvious for at least this reason.

Claim 1 recites a method performed in a content engine. Hefetz is not performed in a content engine. Claim 1 was rejected over Hefetz, Kniest and Griffin. The references do not concern a content engine. Claim 1 recites that the content engine will dynamically provide a portal in a CDN. The references do not concern a CDN. Hefetz describes creating a portal. However, the portal in Hefetz is not a portal associated with a CDN.

Hefetz Deals with Distributed Applications Not a Content Distributed Network

The Applicant asserts that Hefetz fails to teach a "content distributed network." A CDN is different from the distributed application network in Hefetz. Since the CDN is different, a portal page that describes content stored in a content engine is different from an application portal page described in Hefetz. The network in Hefetz has no content engine and thus cannot possibly teach receiving a request from a client at the content engine. Since Hefetz has no distributed content, Hefetz cannot possibly teach providing a portal page to a client system, where the portal page describes the cached content. For at least this reason none of the claims are obvious over Hefetz and the other references.

The "portal" in Hefetz is an Application Portal

The Claimed Portal is a Content Distributed Network Information Portal

"Portal", as used in Hefetz, refers to a collection point for several enterprise applications. Consider Hefetz [0003], which reads: "A portal brings together

various applications from an intranet and an extranet that may or may not be related to one another.” Thus, Hefetz is referring to a collection point for a set of applications, not a dynamic portal page as claimed and described. The portal as claimed and described refers to “a dynamic portal page including information about both data cached and data pre-positioned at a content engine connected to the network and about data availability at the content engine.” (pg. 3, [0008]). The claimed portal provides information about what content is and is not available at the content engine. The portal in Hefetz only provides access to applications.

The Examiner’s Response to Arguments insists that Hefetz “teaches a system that utilizes a run-time and design-time translator which acts as a content engine”. (pg. 16, [0009]). This illustrates that the OA does not understand what a content engine is in the context of the claims. A “content engine” is described on at least page 1, paragraph 1, of the application as filed. “A content distributed network (CDN) enables web content from an origin server to be distributed to caching servers at various locations ... the caching servers are also called content engines.” So, a content engine stores information received from an origin server. The portal in Hefetz does not cache information received from an origin server, but rather provides a path through which a client system can run applications located somewhere else on a network. Thus, Hefetz does not teach or suggest a content engine.

The OA asserts that “the run-time and design-time translator” is a “content engine.” This is incorrect. The run-time and design-time translator are not a content engine. The run-time and design-time translator, as described in [0011] of Hefetz are used for “selectively interpreting the portal page template.” This is unrelated to a content engine that caches information from an origin server. Thus this claim and all the independent claims are not obvious for at least this reason.

The “portal” in Hefetz Accepts Requests

The Claimed Portal is Provided in Response to a Request

Claim 1 recites “receiving a request for the portal from a client system.” The Hefetz portal is a location to which requests are made. The claimed portal is something that is requested. In claim 1, a request is made for a portal (e.g., dynamic web page), and that page is populated and provided to the requester. In Hefetz, a request is made to a portal application that is an access point for several applications. Consider Hefetz [0033], which reads: “**The portal 220 receives requests** from the clients 200.” Clearly a request is not being made **for** a portal as claimed, but rather a request is being sent **to** a portal. This helps understand the difference between the claimed portal and the portal in the reference. Since the reference does not teach receiving a request for a portal, but rather teaches a portal receiving a request, the claims are not made obvious by the references. Therefore, for at least this reason, claim 1 and its dependents not obvious over the combination of references.

Claim 1 also recites “inserting into the ... dynamic portion of the portal template ... links to content cached in the content engine.” Since neither reference concerns a content engine in a CDN, it follows that neither reference says anything about adding a link to a portal that is going to be provided to a client system, where the link connects to content cached in the content engine. The OA admits that Hefetz does not teach adding links to content cached in a content engine. Thus the OA relies on Kniest to provide the missing link. However, the paragraph relied on in Kniest teaches nothing about adding a link to content cached in a content engine. The cited paragraph [0306] contains a difficult to understand sentence that reads: “**Cache Forward Engine Gathers Information in Advance Uses Currently Viewed Content for Links to Other Web Sites.**” This difficult to parse sentence clearly does not teach “inserting ... links to content cached in the content engine.” It says nothing about inserting a link into a portal page, it says nothing

about a content engine, and it says nothing about content cached at a content engine. For at least this additional reason this claim is not obvious and is in condition for allowance.

Claim 1 also recites "inserting into the ... dynamic portion of the portal template ... information about content availability." The OA asserts that [0028] of Hefetz teaches inserting information about content availability into a portal template. It does no such thing. The cited paragraph describes putting placeholders into an application portal. A placeholder is not information about content availability. A placeholder has nothing to do with content availability in a CDN. The cited placeholders are merely related to application portal design, not to identifying content availability in a content engine associated with a CDN. For at least this additional reason this claim is not obvious and is in condition for allowance.

Griffin does not remedy the deficiencies of Hefetz and Kneist. Griffin only discusses rendering portlets in a portal page. (Griffin, [0017]). The portal page is not associated with a CDN. Further, Griffin does not teach inserting links to content cached in the content engine or inserting information about content availability. For at least this additional reason claim 1 is not obvious and is in condition for allowance.

Since claim 1 has been shown to be not obvious, accordingly claims 5-11, and their dependents, are similarly not obvious and are in condition for allowance. Additionally, since all the independent claims recite similar elements and limitations, none of the other claims are obvious over Hefetz, Kneist, and Griffin.

Claim 12

This claim is similar to claim 1. However, instead of dynamically providing a portal in a CDN, the claim provides a portal to a channel in a CDN. Thus the claim includes receiving a request for the channel portal, accessing a channel portal

template, adding information to the channel portal, and providing the channel portal page to the requesting client. Since none of the references deal with a content engine and CDN, it follows that none of the references take the additional actions associated with a portal to a channel in a CDN. For at least this reason claim 12 is not obvious and is in condition for allowance. Accordingly, claims 13-14, which depend therefrom, are similarly not obvious and are in condition for allowance.

Claim 15

This claim recites “a content engine” that “dynamically provides a portal.” The portal is provided in a “content distributed network.” As described above, none of the references concern a content engine or CDN. Hefetz describes a “selectively interpreted portal page layout template.” (Title) This selectively interpreted page layout template is used to develop an interface to an application that serves as an access point to “various applications from an intranet and an extranet that may or may not be related to one another.” (Hefetz, [0003]). This type of “portal” is not a portal associated with a content engine in a CDN. Thus the Hefetz portal does not teach the claimed content engine.

Since Hefetz is not concerned with a content engine, it follows that Hefetz does not teach the claimed content engine controller that inserts into the dynamic portal links to content cached in the content information. It also follows that Hefetz does not teach the claimed content engine controller that inserts into the dynamic portal information about content availability. For at least these reasons Claim 15 is not obvious over the combination of references and is in condition for allowance. Accordingly, claims 16-21 are similarly not obvious and are in condition for allowance.

Claim 22

This claim is a Beauregard claim that mirrors claim 1. Therefore this claim is not obvious for at least the reasons described above in association with claim 1.

Claim 2

This claim was rejected as being obvious over Hefetz, Kniest, and Anuszczyk. Claim 2 has been cancelled and the elements of claim 2 have been added to claim 1. Claim 1 is not obvious for the same reasons as described above. The element that has been added to claim 1 from claim 2 recites inserting additional information to the portal page that is not created by the references. The additional information includes "a list of files that remain to be downloaded to the portal page with an indicator of unavailability." This additional information is gathered in response to comparing a replication status to a catalog of files in the content engine to determine what has been downloaded and what still needs to be downloaded. Since Hefetz does not concern a content engine, but rather concerns an interface to a set of applications, Hefetz does not teach figuring out what content is missing in the content engine. Neither of the other references remedy this deficiency. Therefore the elements of claim 2 that have been added to claim 1 are not obvious.

The OA also asserts that "writing the list of files that remain to be downloaded to the portal page with an indicator of unavailability" is taught in paragraph [0045] of Hefetz. Line by line analysis of this paragraph yields no such teaching. The rest of the reference is similarly void of any such teaching. The table below performs the line by line analysis.

Sentence	Teaches Writing Files To Be Downloaded To Content Engine?
The portal development tool 400 can be used to	No.

create and show the relations between different content components, including how they relate to the applications that provide the dynamic content.	
For example, a portal developer may create a template with two iViews, a first iView on the left in a narrow column with a list of items to select, and a second iView on the right in a wide column with details of a current item selected in the list.	No.
The portal developer can readily select which components to place on a page, set permissions and/or attributes for user-specific personalization, specify the layouts of multiple portal pages by defining the portal templates in the GUI that presents visual representations of the portal pages to be generated at run-time using the templates, and set the structure of the content components in the templates.	No.

This paragraph is completely silent about writing anything concerning pages to be downloaded. Thus it follows that the paragraph is similarly silent concerning the additional action of providing an indicator of unavailability. For at least this additional reason this claim is not obvious and is in condition for allowance.

Claim 21

This claim concerns a method performed in a CDN. The method includes providing a content engine, receiving a request at the content engine, using the content engine to access a portal template, using the content engine to manipulate the portal template, and using the content engine to provide the portal template to

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Group Art Unit: 2164

client system. None of the references concern a CDN as claimed and described. Therefore it follows that none of the references teach a content engine. Since a content engine is not taught, it follows that the claimed actions performed by the content engine are also not taught. For at least these reasons claim 21 is not obvious and is in condition for allowance.

Appln No.: 10/736,436
Filing Date: 12/15/2003
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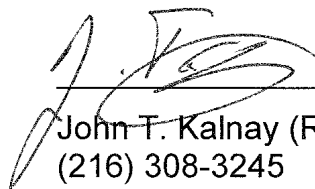
Applicant(s): LI, *et al.*
Examiner: KHOSHNOODI, FARIBORZ
Group Art Unit: 2164

Conclusion

For the reasons set forth above, the claims are now in condition for allowance. An early allowance of the claims is earnestly solicited.

Respectfully submitted,

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